Testimony

House Bill 1291

Senate Agriculture Committee

Thursday, March 17, 2005, 10 a.m.

North Dakota Department of Health

Good morning, Chairman Flakoll and members of the Senate Agriculture Committee. My name is David Glatt, and I am section chief of the Environmental Health Section for the North Dakota Department of Health. I am here today to provide testimony in support of House Bill 1291 as amended.

The Department of Health is submitting two housekeeping amendments to engrossed House Bill 1291: (1) the first makes clear that the odor readings will be taken at the increased setback distance created by subsection 10 when that new provision applies; (2) the second adds the word "units" in defining "animal units" that was inadvertently left out when the bill was amended in the House.

House Bill 1291 defines locations for odor readings, setback distances in counties (or townships), notification requirements for noncompliant animal feeding operations and development of timelines for implementing odor management plans. If counties are not able to regulate the nature, scope and location of feeding operations, the department must require setbacks as determined by the size of the operation and identified in the following table:

Setback Distances for Animal Feeding Operations

Number of Animal Units	Hog Operations	Other Animal Operations
fewer than 300	none	none
300 - 1000	0.50 mi (0.805 km)	0.50 mi (0.805 km)
1001 or more	0.75 mi (1.207 km)	0.50 mi (0.805 km)
2001 or more	1.00 mi (1.609 km)	0.75 mi (1.207 km)
5001 or more	1.50 mi (2.414 km)	1.00 mi (1.609 km)

The department is aware of the concerns expressed and appreciates the efforts by all parties to find an equitable resolution to the important issue of odors from animal feeding operations.

Initially, House Bill 1291 directed that air quality impacts associated with open-air feedlots be limited to the monitoring of hydrogen sulfide. However, states using a hydrogen sulfide standard report that they have not seen any correlation between odors and the hydrogen sulfide concentration at open-air lot feedlots. In other words, significant odors can be present without the presence of hydrogen sulfide.

Scientists have tried to identify “indicator gases” for livestock operations which, in theory, would occur in higher concentrations in strong-odor conditions and lower concentrations in low-odor conditions. However, these attempts have been unsuccessful.

In addition, the fact that some odors may be produced by a combination of several hundred compounds has complicated the development of an electronic instrument to accurately measure odors.

Although there is not a nationwide, consistent approach for states to follow in dealing with nuisance odors generated from animal feeding operations, states have been actively addressing the odor issue. State approaches have included the use of scentometers, increased permit restrictions, setbacks, continuous monitoring and odor management plans. In some cases, state have deferred to the local jurisdictions to implement odor regulations.

Over the years, North Dakota’s existing odor law has proven effective for a vast majority of the ag-related operations in the state. It is the department’s belief that the odor law as amended by House Bill 1291 will continue to protect the interests of both the livestock producer and rural landowner.

This concludes my testimony. I am happy to answer any questions you may have.

THE DEPARTMENT OF HEALTH PROPOSED THE FOLLOWING HOUSEKEEPING AMENDMENTS TO FIRST ENGROSSED HOUSE BILL NO. 1291.

Page 2, line 14, after "58-03-11," insert "or when the setback distance is greater than one-half mile [.80 kilometer] under subsection 7,"

Page 4, line 1, remove "animals" and insert "animal units"

Page 4, line 3, remove "animals" and insert "animal units"

Page 4, line 6, remove "animals" and insert "animal units"

Page 4, line 10, remove "animals" and insert "animal units"

Page 4, line 14, remove "animals" and insert "animal units"